

Summary Criminal Case No. 360/2023.
Gajanan Umkar V/s. Nilesh Wandale.
CNR No : MHBU090008242023.

ORDER BELOW EXH-20.

This is an application filed by the complainant under the provision of Section 143-A of the Negotiable Instrument Act, 1881.

02. The present case is instituted by the complainant for the dishonour of the cheque which has been drawn by the accused person in favour of the complainant in satisfaction of his legal date. The accused has issued cheque of ₹ 3,00,000/- having No. 637076 dated 04/07/2023 of Vidharbha Konkan Gramin Bank, Branch Jamod. The complainant had deposited the cheque for encashment however it was dishonoured for the reasons funds insufficient in the account maintained by the accused. The complainant had issued legal notice demanding the cheque amount by notice dated 12/07/2023 however the accused did not pay any single penny for the same. Hence, the complainant was constrained to file the present criminal prosecution against the accused person for the offence punishable U/Sec. 138 Negotiable Instrument Act, 1881.

03. After instituting the case, the accused has appeared and secured his presence. The particulars of offence is recorded on 07/02/2024. The matter is pending for hearing of the case, in which the complainant has filed application U/Sec. 143-A to direct the accused person to deposit 20% out of the disputed cheque amount. The say of the accused person was called. However, the accused person failed to submit his say. Hence the application was taken up to be decided without the say

of the accused.

04. From rival contentions and the documentary evidence and the argument advanced by the learned advocates the following points emerges for my determination to which I have recorded my finding with the reasons stated below.

Sr. No.	Points for determination	Findings.
1.	Whether the complainant is entitled for interim compensation as per section 143-A of the Negotiable Instrument Act ?	Affirmative
2.	What order ?	As per final order.

:: R E A S O N S ::

As to point No. 1

05. In this regard I have gone through section 143-A of the Negotiable Instruments Act. Section 143-A of the Negotiable Instruments act speaks about the payment by the drawer of the dishonoured cheque to the payee thereof interim compensation of an amount not exceeding 20% of the value of the instrument during pendency of the proceeding for the offence of the dishonoured of the section 138 of the said act. Section 143-A of the Negotiable Instruments Act the court may order the drawer of the cheque to pay interim compensation to the complainant but however the compensation shall not exceed 20% amount of the cheque. The word may has been inserted by the legislature and shows that this provision is directory and not mandatory. However, while directing to the accused person to deposit the interim compensation the

court has to look the financial condition of the accused person to pay the amount. In the present case the complainant has deposed in the affidavit that he purchased 0H.81R agricultural land in gut No. 161, Mauze Gorala from the accused on 04/02/2020 by way of registered sale deed. Also, there was loan of Avji Sidhya Nagari Credit Society on the said land and that loan is overdue today. When the complainant asked to pay the loan amount to the accused. The accused gave a cheque to the complainant to pay this loan. *Prima facie* from contents of the complainant it can be seen that financial condition of the accused person is good enough as he sold a agricultural land. *Prima facie* it appears that there is some commercial or financial transaction in between the complainant and the accused person. Out of that relations the complainant has advanced amount to the accused person. The accused person has issued a cheque bearing No. 637076 for the amount ₹ 3,00,00/- from his account maintained with Vidharbha Konkan Gramin Bank, Branch Jamod, which has been dishonoured due to insufficiency of funds. Hence, in light of the above discussion in my opinion the accused has to pay 20% of the amount as interim compensation to the complainant. Hence, I answered point No. 1 in affirmative.

As to Point No. 2

06. In the light of the above discussion and opinion as I have already came to the conclusion the complainant is entitled for interim compensation as per section 143-A of the Negotiable Instruments Act, in answer to point No. 2, I proceed to pass following order.

:: O R D E R ::

01.	The application is allowed.
02.	The accused is directed to pay 20% amount i.e. ₹ 60,000/- to the complainant out of the cheque amount i.e. ₹ 3,00,000/- within 60 days from the date of this order.

Date: 27/09/2024.

(C. M. Kharkar)
Judicial Magistrate F.C, (Court No. 2)
Jalgaon Jamod (MHBU09-3003)